

**REMARKS**

This Response is in reply to the Office Action mailed May 20, 2010. Claims 29, 31-35, and 38-41 were pending in the application with each of these claims being rejected.

The undersigning attorney appreciates the examiner's time during a telephone conference on August 6, 2010. ***The examiner stated during the conference that he is removing the rejections under 35 USC 112. Therefore, claims 35 and 38-41 are in condition for allowance.***

Claims 29 and 31-34 were rejected under 35 USC 103(a) as being unpatentable over US Patent No. 4,934,937 (hereinafter Judd) in combination with US Patent No. 5,903,345 (hereinafter Butler). Independent claim 29 includes that the emitter and vertical support are configured to ***steadily move the vertical boundary downward*** while the emitter is rotating during a training exercise from a first vertical level to a lower second vertical level to replicate movement of the heat critical vertical boundary caused by smoke and heat that accumulate during a fire.

Judd discloses an enemy fire simulator 30 that has a base 31 upon which a generally U-shaped channel or post 32 is uprightly supported. A laser 33 is mounted at an upper section of the channel. The bottom of the channel is rigidly mounted atop a pivot plate 35. (col. 3, lines 13-19; Figs. 1 and 2).

Page 5 of the Office Action cites to column 3, lines 15-20 of Judd as disclosing that the vertical height of the boundary is adjustable. The Applicants disagree with this interpretation of Judd for several reasons. Col. 3, lines 15-20 discloses for the laser to pivotally move ***"about"*** an upright axis of the channel. This section appears to disclose that the laser moves around an upright longitudinal axis that extends through the channel. This movement around the longitudinal axis appears to be consistent with the structure that includes the channel rotating about or around the longitudinal axis as a result of the pivoting movement of the plate upon which it is mounted. Movement of the laser around the upright axis of the channel would not

appear to change the vertical position of the laser output. There does not appear to be any structure that allows for movement of the laser in a manner to vertically adjust the height of the laser output.

Further, claim 29 requires that the vertical boundary is **steadily** moved downward. Judd discloses that the laser is operated **intermittently** (col. 3, lines 64-66). Therefore, Judd does not disclose that the laser boundary is steadily moved vertically downward.

Butler discloses a remotely controlled adjustable support stand for positioning a laser scanner at various vertical and angular positions. Butler is used for measuring a horizontal plane and does not appear to include a rotating laser that steadily moves in a vertical direction. Butler does not disclose moving a vertical boundary formed by the emitter downward during a training exercise. Butler discloses the vertical height may be adjusted, but does not appear to disclose that the vertical height can be adjusted while the laser scanner is operating.

Further, neither Judd nor Butler would appear to disclose steadily moving a boundary vertically downward while the laser is rotating. Judd is directed to a system for combat training. This type of training does not include firearm usage that progressively moves vertically downward. Rather, Judd would teach moving sporadically at various vertical and lateral positions to replicate the use of enemy gunfire. Further, as stated above, Judd discloses that the laser may be operated intermittently which would not allow for steady vertical movement. Butler does not disclose steadily moving downward as it is directed to a measuring system. There is no reason for this system to steadily move downward as it appears that Butler discloses measuring discrete vertical heights.


Therefore, neither Judd nor Butler either alone or in combination disclose or make obvious the aspects now included within independent claim 29. For at least these reasons, independent claim 29 and dependent claims 31-34 are not made obvious over this combination.

Claim 38 has been amended to correct a minor antecedent basis issue and to add further clarification. This amendment is not done in view of any prior art.

In view of the above amendments and remarks, the Applicants submit the present application is in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

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Dated: August 12, 2010